

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Terry Alan McClure, # 70442,)	C/A No.: 3:07-cv-902-GRA-JRM
)	
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
Sheriff J. Al Cannon; and Mitch Lucas,)	
Warden,)	
)	
Defendants.)	
)	
)	

This matter comes before the Court for a review of the magistrate's Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., filed on December 11, 2007. Plaintiff originally filed suit pursuant to 42 U.S.C. § 1983 on April 4, 2007, complaining that the Charleston County Detention Center violated his First Amendment rights by withholding certain parcels of mail. In addition, Plaintiff filed a motion for preliminary injunction on June 28, 2007. Defendants filed a motion for summary judgment and in the alternative motion to dismiss on July 30, 2007; the court issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), to the plaintiff on August 2, 2007; and the plaintiff responded to the Defendants' motion on September 10, 2007. The plaintiff also filed a motion for summary judgment on August 2, 2007; Defendants did not respond.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). The plaintiff filed objections on December 21, 2007.

Objections

The plaintiff objects to the magistrate's characterization the evidence he provided to support his claims for declaratory and injunctive relief against the Charleston County Detention Center (CCDC). However, Plaintiff is no longer housed in CCDC; he is now at a correctional facility in Allendale, South Carolina. For this reason the magistrate properly found that all of the plaintiff's claims for injunctive and declaratory relief were moot. *See Williams v. Griffin*, 952 F.2d 820, 823 (4th Cir. 1991). Therefore, issues relating to the evidence he provided to support his claims for declaratory and injunctive relief against CCDC are moot. Therefore, this objection is without merit.

Plaintiff also objects to the denial of injunctive relief by arguing that he has standing to sue. For support, he cites to a response by the same Defendants in a different law suit. However, a suit can properly be dismissed as moot regardless of whether all parties have standing to sue. Therefore, this objection is without merit.

Conclusion

After a thorough review of the record, memoranda, objections, and Report and Recommendation, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT the Defendants' motion to dismiss be GRANTED as to the plaintiff's claims for injunctive relief and be DENIED as to

Plaintiff's claims for monetary damages. FURTHER it is ordered that the Plaintiff's motion for summary judgment be DENIED and that Plaintiff's motion for a preliminary injunction be DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

February 7, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**